

The September 3, 2014 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of the Town Hall.

Chairman Matthew Zuker called the meeting to order at 6:32 p.m. with the following members present:

Matthew Zuker, Chairman
James DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member
Timothy Foley, Associate Member

Also present:
Ilana Quirk, Town Counsel
John Spillane, Chairman of Sewer & Water Commissioners (left at 6:59 p.m.)

Mr. Zuker declared the board will be going into Executive Session to discuss litigation strategy regarding litigation known as 5th Fairway Development, LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2009-09, involving a proposed 40B Comprehensive Permit for land on Baker Street and to discuss litigation strategy regarding litigation known as Barberry Homes LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2014-01; and Town of Walpole, et al. v Barberry Homes, LLC, Land Court 2014 MISC 481399-AHS and Robertson v. Barberry Homes, LLC, Norfolk Superior Court NOCV2014-000129 involving a proposed 40B Comprehensive Permit for land on Moose Hill Road. A discussion of the foregoing in open session could compromise the purpose for the executive session. He further stated the board will return to open session at the conclusion of the executive session.

A motion was made by Ms. Coffey, seconded by Mr. Hiltz, to go into executive session, under G.L. c.30A, §21 (a)(3), for the purposes and reasons declared by Chairman and with the Zoning Board of Appeals to return to open session thereafter.

The vote was **5-0-0 in favor. (Mr. Zuker – Yes; Mr. DeCelle – Yes; Mr. Hiltz – Yes; Ms. Coffey – Yes; Mr. Foley – Yes)**

The Board returned to open session.

7:00 p.m. – Barberry Homes LLC – Case#21-13 (Zuker, DeCelle, Hiltz, Coffey, Foley)

Mr. Zuker read the public hearing notice for **BARBERRY HOMES, LLC, Case#21-13**, with respect to property located at 272 Moose Hill Road, East Walpole and shown on the Assessors Map 36 and Lot Nos. 66, 66-1, 62, Residence A Zone.

The application is for:

A Comprehensive Permit under MGL Ch. 40B to allow construction of 174 unit apartment project containing 25% affordable units on a parcel of land containing 14.33 acres.

Mr. Zuker thanked the residents for coming to the meeting. He informed the residents that the Board has an extension until September 10, 2014 and that the Board will most likely close the Public Hearing tonight. The applicant is not here again. We will let you speak if you would like. We appreciate everything you have done, all of the extra work and comments. The Board will close the hearing and then have 40 days to render a decision. We will deliberate this decision and the residents are more than welcome to come to these public meetings. The Board will not be able to take any new information from the public during those deliberations but the residents are still welcome to be there.

Ms. Patricia Curran of 261 Moose Hill Road asked if the Board will be rendering a decision on the old plan or the new plan that the applicant supposedly had with the removal of the townhouses.

Mr. Zuker stated that the Board will act on the application in front of us. However, the Board could add a condition regarding the removal of the townhouses.

Mr. Michael Moore of 237 Moose Hill Road felt that the removal of the townhouses was just a smoke screen.

Mr. Hal Andersen of 239 Moose Hill Road asked the Board to discuss the litigation.

Ms. Deborah Robertson of 241 Moose Hill Road wanted to know if the applicant is OK with the removal of the townhouses or is that just something that the Board wants.

Mr. Zuker explained that there is nothing on the table from the Applicant saying the removal of the townhouses will happen.

Ms. Robertson expressed that the residents are still not even happy with the removal of the townhouses.

A resident wanted to know if the applicant is still working with the Sewer & Water Commission.

Town Counsel Quirk stated that the applicant has not met with the Sewer & Water Commission. The applicant has had a roundabout conversation with them even as late as today. However, they have not actually met with them.

Mr. Zuker said we understand your frustrations. The Board understands that this is not our neighborhood but it is our town and it is still very upsetting. He went on to say that the Board will post the next meeting online and that our secretary will try to email some of the residents in hopes that these residents will let everyone else in the neighborhood know about these meetings.

Mr. Hiltz mentioned that the residents can call the Board's Secretary and she can inform them when the next meeting will be.

Ms. Georgia Beliveau of 18 Orchard Drive asked if the 40 days to make a decision was from September 10, 2014.

Mr. Zuker said that the 40 days would be from tonight.

Ms. Beliveau mentioned that she would like to be at the meeting to hear when the Board deliberates.

Mr. Zuker stated that the Board would make the best effort to inform the residents.

Ms. Pamela Verrochi of 266 Moose Hill Road said that it sounds like the applicant is going to build back there and that this is a done deal. She wanted to express her frustrations. She explained that the applicant approached her and wanted to buy her house. When she stated no, he said that they can do anything they want and that the town can do nothing about it.

Mr. Zuker stated that 40B's are very tricky. Your frustration is noted and we will do what we can. 40B developments allow developers to bypass local zoning bylaws for affordable housing.

A motion was made by Mr. Zuker, seconded by Mr. DeCelle, to close the public hearing.

The vote was **5-0-0 in favor.** (Zuker, DeCelle, Hiltz, Coffey, Foley voting)

Mr. Zuker declared the board will be going back into Executive Session to continue to discuss litigation strategy regarding litigation known as 5th Fairway Development, LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2009-09, involving a proposed 40B Comprehensive Permit for land on Baker Street and to discuss litigation strategy regarding litigation known as Barberry Homes LLC v. Walpole Zoning Board of Appeals, Housing Appeals Committee No. 2014-01; and Town of Walpole, et al. v Barberry Homes, LLC, Land Court 2014 MISC 481399-AHS and Robertson v. Barberry Homes, LLC, Norfolk Superior Court NOCV2014-000129 involving a proposed 40B Comprehensive Permit for land on Moose Hill Road. A discussion of the foregoing in open session could compromise the purpose for the executive session. He further stated the board will not return to open session at the conclusion of the executive session.

A motion was made by Ms. Coffey, seconded by Mr. Hiltz, to go into executive session, under G.L. c.30A, §21 (a)(3), for the purposes and reasons declared by Chairman and with the Zoning Board of Appeals to not return to open session thereafter.

The vote was **5-0-0 in favor.** (Mr. Zuker –Yes; Mr. DeCelle – Yes; Mr. Hiltz – Yes; Ms. Coffey – Yes; Mr. Foley – Yes)

A motion was made by Mr. Zuker, seconded by Mr. DeCelle, to adjourn the meeting at 8:57 p.m.

The vote was **5-0-0 in favor.** (Zuker, DeCelle, Hiltz, Coffey, Foley voting)

Craig W. Hiltz
Clerk

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Minutes were approved on October 29, 2014.